

## REMARKS

The drawings stand under objection for not showing the “rollers being moveable between floor and open positions.” Applicant notes discussion in the specification supporting this feature.  
5 For example, the paragraph beginning at page 6 line 26 of the specification describes well the “rollers being moveable between floor and open positions.”

Applicant proposes the following drawing correction: FIG. 2 will be modified to include in phantom the rollers 100 in “an open position occupying the vertical portion of the L-shaped path  
10 provided by sprockets 103 and chains 102” as supported by the specification at page 6 line 30 through page 7 line 1.

Applicant encloses herewith a copy of FIG. 2 modified in red ink to show the proposed change.  
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Applicant further proposes that the specification be amended to reference FIG. 2 as showing the “open” position. Specifically, at page 6 line 30 applicant proposes insertion of the phrase --as shown in FIG. 2-- following the phrase “into an open position”

20 Upon approval of the proposed modification to FIG. 2 and to the specification as set forth above, applicant will submit a formal amendment to the specification and include the modification to FIG. 2 in any formal drawings submitted in this application.

25 The disclosure stands under objection because items 25 and 27 are called both a suspension point and a guide. This typographic error has been corrected by amendment herewith. More particularly, the specification has been amended as follows: at page 4 line 5 applicant deletes “25” and inserts - -29- - thereat and at page 4 line 7 applicant deletes “27” and inserts - -29- - thereat.

Claims 1-4 and 7-14 stand rejected as allegedly anticipated by Krebs US Patent No. 4,055,257.

The cited Krebs reference does not manipulate horizontally disposed rows of items.

Krebs manipulates single-item layers. The common and well accepted meaning of “layer”, however, is a horizontally disposed organization of multiple items formed row-by-row. At no point does Krebs show manipulation of rows, only entire single-item layers. In fact, Krebs manipulates multiple single-item layers by transporting stacking such layers into a “stack” of single-item layers.

The Examiner alleges Krebs to have shown “vertical rows.” Applicant is unaware of any use of the term “vertical rows” in the relevant art. A “row” is a sub-component of a layer, both of which are horizontally disposed organizations of items.

For clarification, applicant has amended independent claims 1 and 12 to recite “horizontally disposed rows.”

Accordingly, the rejection of claims 1-4 and 7-14 as anticipated by Krebs, a device manipulating only single-item layers, must be withdrawn.

Claims 1-14 stand rejected as allegedly obvious in light of Krebs and Lassig US Patent No. 4,022,334.

The Examiner considers the obviousness rejection to stand even if the claims include reference to “horizontal rows.” In particular, the Examiner alleges as obvious “to convey horizontal rows as taught by Lassig rather than single bundles in order to more efficiently move groups of items.

4 The device of Krebs does not and cannot manipulate horizontal rows into layers. The Krebs  
device has no layer building capability, e.g., no ability to build a layer comprising horizontally  
disposed rows. All item groups brought into the Krebs device become stacked item groups without  
further organization. The Krebs device has no ability to do other than stack, i.e., it cannot build a  
5 layer from horizontally disposed rows. If such horizontally disposed rows were fed into the device  
of Krebs, one would obtain a stack of rows, not a stack of layers comprising horizontally disposed  
rows.

10 Applicant respectfully submits that proposed modifications und 35 USC Section 103 cannot  
extend to such degree that the basic operation of the base reference, here the Krebs device, changes  
fundamentally. Krebs shows and presents as its basic objective strictly single-item layer transport  
and stacking. Krebs cannot be modified under 35 USC Section 103 to extend to layer construction  
by organizing horizontally disposed rows and thereafter stacking of such composite-item layers.

15 Accordingly, the rejection of claims 1-14 as obvious under 35 USC Section 103 must be  
withdraw.

In light of the above amendment and remarks, reconsideration and withdrawal of the  
outstanding rejections is respectfully requested.

20 Respectfully submitted,

Keith A. Cushing

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25 **CERTIFICATE OF MAILING**

30 I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the US  
Postal Service as First Class Mail, in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, DC 20231, on the  
date indicated below. 3-11-03  
Date \_\_\_\_\_

35 \_\_\_\_\_  
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